

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, DECEMBER 8, 2003 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Camp; Council Members: Friendt, McRoy, Newman, Svoboda, Werner; Joan Ross, City Clerk; Absent: Cook.

Council Chair asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

MCROY Having been appointed to read the minutes of the City Council proceedings of December 1, 2003, reported having done so, found same correct.

Seconded by Newman & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook.

MAYOR'S AWARD OF EXCELLENCE

Mayor Seng came forward to present the Mayor's Award of Excellence for the month of November to Matthew Mittelstadt of the Parks and Recreation Dept. in the category of Productivity.

PUBLIC HEARING

MANAGER APPLICATION OF PATRICIA PIKE FOR BUGGY BATH WEST DBA BUGGY BATH CAR WASH WEST AT 1502 W. O ST. - Patricia Pikes, 3318 N.W. Michael St., manager, took oath and came forward to answer questions.

Jon Camp, Council Member, asked if there would be smoking in the store?

Ms. Pike answered no.

This matter was taken under advisement.

MANAGER APPLICATION OF PATRICK R. LEAPLEY FOR GMRI INC. DBA RED LOBSTER RESTAURANT #0236 AT 6540 O ST. - Patrick Leapley, 2530 N. 74th Street, General Manager, took oath and came forward to answer questions.

This matter was taken under advisement.

ACCEPTING AND APPROVING THE "AMENDMENT TO CORNHUSKER SQUARE REDEVELOPMENT PROJECT PHASE TWO AGREEMENT - BURNHAM YATES CONFERENCE CENTER" BETWEEN THE CITY OF LINCOLN, CORNHUSKER SQUARE LAND COMPANY, AND DAVID H. MURDOCK; AND ACCEPTING AND APPROVING THE "AMENDMENT TO FIRST AMENDED AND RESTATED LEASE AND OPERATING AGREEMENT - BURNHAM YATES CONFERENCE CENTER" BETWEEN THE CITY OF LINCOLN AND CORNHUSKER SQUARE LIMITED PARTNERSHIP - Rick Peo, Ass't. City Attorney, came forward to state that there are two motions to amend the redevelopment agreement and the lease and operating agreement and they have been found satisfactory by the Law Department. One amendment will extend an additional 25 years.

This matter was taken under advisement.

ORDERING PAVING DISTRICT 2626 CONSTRUCTED IN W. SOUTH ST., S.W. 23RD ST. TO S.W. 27TH ST., & W. SOUTH ST. TO W. A ST. - Bruce Wright, 1301 S.W. 40th Street, came forward representing his mother-in-law, Ellanore Brennan, stating that this paving district will not benefit her in any way and will cause her a financial hardship.

City Clerk presented for the record a letter from George Gonzales in opposition.

Doug Hanson, Dept. of Correctional Services, P.O. Box 94661, Lincoln, NE, came forward in opposition. Discussion followed.

This matter was taken under advisement.

SPECIAL PERMIT 1013J - APP. OF DANSID, L.L.C. TO ALLOW A DRIVEWAY TO BE LOCATED IN THE REQUIRED FRONT YARD AT THE T.O. HAAS TIRE STORE ON PROPERTY GENERALLY LOCATED AT S. 56TH ST. & WALTZ RD. - Michael Bott, architect, 6800 Van Dorn, appearing on behalf of Randy Haas & Company came forward to answer questions.

This matter was taken under advisement.

SPECIAL PERMIT 2002 - APP. OF QUIN-C, INC. FOR AUTHORITY TO SELL ALCOHOLIC

BEVERAGES FOR CONSUMPTION OFF THE PREMISES ON PROPERTY GENERALLY LOCATED AT 4801 RANDOLPH ST. - Chuck Salem, 2825 Stratford Avenue, owner Quin-C, Inc., stated that the Planning Dept. found this to have a low impact on the neighborhood. Beer will not be sold after 10:00 p.m. and the distance from the front door to the nearest neighbor will be 110 feet. Discussion followed.

Tom Allen, 5405 A Street, came forward in support.

Carol Brown, 2101 Elba Circle, came forward in opposition. Discussion followed.

Mike Fitzgerald, 3794 H Street, came forward in support of the Quik Shop as it is an improvement to the corner, but not the selling of alcohol. Discussion followed.

Kevin Ward, 3754 H Street, officer of the Witherby Neighborhood Assn., came forward in opposition.

Mike Morosin, 2055 S St., came forward in opposition.

Mr. Salem came forward for rebuttal.

Russ Folser, Police Department, stated that the Police Department will not approve a special permit if they are within 100 feet from a residential district. Discussion followed.

Marvin Krout, Planning Director, came forward to answer questions. Discussion followed.

This matter was taken under advisement.

SPECIAL PERMIT 2039 - APP. OF MESAL ENTERPRISES FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES ON PROPERTY GENERALLY LOCATED AT 5240 S. 48TH ST. - Mike Alesio, 2601 S. 70th Street, came forward to request approval of this special permit.

Alan Wachter, 2601 S. 70th Street, came forward representing Mesal Enterprises stated that they had met with the neighbors and agreed with the mitigated changes. Discussion followed.

Carol Brown, 2201 Elba Circle, representing the Lincoln Neighborhood Alliance, came forward in opposition. Discussion followed.

Mary Jane Dunn, 5201 Topaz Ct., came forward stating similarities and differences of on-sale and off-sale liquor licenses. Discussion followed.

This matter was taken under advisement.

APPROVING A SCHEDULE OF MAXIMUM FEES THE CITY MAY CHARGE FOR AMBULANCE SERVICE - Mike Spadt, Fire Chief, came forward to answer questions. Discussion followed.

Sherrie Meints EMS Business Manager, came forward to explain the collection process, medicare payments and to testify to the need of raising the ambulance fees. Discussion followed.

TOOK BREAK 3:50 P.M.

RECONVENED 4:07 P.M.

MISCELLANEOUS BUSINESS

John Carter, 544 N. 24th Street, asked if Havelock Refuse could be contacted for services in the Hawley, Malone Neighborhood areas. He also stated he was opposed to CenterPointe locating in his neighborhood.

Councilman Svoboda stated that the city does not regulate trash service so they could request whoever they wanted.

Mike Morosin, 2055 S St., came forward to thank the City Council for looking into the Antelope Valley process. Twenty-two properties will be taken for this project and \$300,000 has been budgeted for them. He would like to see an end to government entities being involved in the property valuations.

This matter was taken under advisement.

**** END OF PUBLIC HEARING ****

COUNCIL ACTION

LIQUOR RESOLUTIONS

MANAGER APPLICATION OF PATRICIA PIKE FOR BUGGY BATH WEST DBA BUGGY BATH CAR WASH WEST AT 1502 W. O ST. - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82493 WHEREAS, Buggy Bath West dba Buggy Bath Care Wash West located at 1502 West O Street, Lincoln, Nebraska has been approved for a Retail Class "B" liquor license, and now requests that Patricia Pike be named manager;

WHEREAS, Patricia Pike appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Patricia Pike be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook.

MANAGER APPLICATION OF TODD M. KERNS FOR OUTBACK STEAKHOUSE FL, INC. DBA OUTBACK STEAKHOUSE AT 633 N. 48TH ST. - PRIOR to reading:

FRIENDT Moved to continue public hearing to 12/15/03.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

MANAGER APPLICATION OF PATRICK R. LEAPLEY FOR GMRI INC. DBA RED LOBSTER RESTAURANT #0236 AT 6540 O ST. - CLERK read the following resolution, introduced by Glenn Friendt, who moved its adoption for approval:

A-82494 WHEREAS, GMRI, Inc. dba Red Lobster Restaurant #0236 located at 6540 O Street, Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, and now requests that Patrick R. Leapley be named manager;

WHEREAS, Patrick R. Leapley appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Patrick R. Leapley be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Glenn Friendt

Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

ORDINANCES - 2ND READING

ACCEPTING AND APPROVING THE "AMENDMENT TO CORNHUSKER SQUARE REDEVELOPMENT PROJECT PHASE TWO AGREEMENT - BURNHAM YATES CONFERENCE CENTER" BETWEEN THE CITY OF LINCOLN, CORNHUSKER SQUARE LAND COMPANY, AND DAVID H. MURDOCK; AND ACCEPTING AND APPROVING THE "AMENDMENT TO FIRST AMENDED AND RESTATED LEASE AND OPERATING AGREEMENT - BURNHAM YATES CONFERENCE CENTER" BETWEEN THE CITY OF LINCOLN AND CORNHUSKER SQUARE LIMITED PARTNERSHIP - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving the "Amendment to Cornhusker Square Redevelopment Project Phase Two Agreement - Burnham Yates Conference Center" between the City of Lincoln, Cornhusker Square Land Company, and David H. Murdock; and accepting and approving the "Amendment to First Amended and Restated Lease and Operating Agreement - Burnham Yates Conference Center" between the City of Lincoln and Cornhusker Square Limited Partnership, the second time.

RESOLUTIONS

ORDERING PAVING DISTRICT 2626 CONSTRUCTED IN W. SOUTH ST., S.W. 23RD ST. TO S.W. 27TH ST., & W. SOUTH ST. TO W. A ST. - CLERK read the following

resolution, introduced by Terry Werner, who moved its adoption:

A-82495 WHEREAS a majority petition has been submitted by the owners of record title of property located within Paving District No. 2626, being West South Street, SW 23rd to SW 27th Street, and SW 27th Street, West South Street to West 'A' Street, and said petitions have been approved and accepted by previous action of this City Council;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That streets in said district are hereby ordered paved, and the paving material in said paving district is hereby designated as asphaltic concrete or Portland cement concrete; and,

BE IT FURTHER RESOLVED that the Department of Public Works is hereby authorized and directed to proceed with the preparation of detailed plans and specifications and to obtain bids for the said paving work in accordance with this resolution.

BE IT STILL FURTHER RESOLVED that, in the event that the actual bid price exceeds 25 percent over the preliminary cost estimate for the improvements, then such bid shall not be awarded until the Council has approved such bid by resolution.

Introduced by Terry Werner

Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

SPECIAL PERMIT 1013J - APP. OF DANSID, L.L.C. TO ALLOW A DRIVEWAY TO BE LOCATED IN THE REQUIRED FRONT YARD AT THE T.O. HAAS TIRE STORE ON PROPERTY GENERALLY LOCATED AT S. 56TH ST. & WALTZ RD. - PRIOR to reading:

WERNER Moved to amend Bill No. 03R-333 on page 1, line 11, delete the words "flag pole" and insert the word driveway.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

CLERK Read the following resolution, introduced by Terry Werner, who moved its adoption:

A-82496 WHEREAS, Dansid, L.L.C. has submitted an application designated as Special Permit No. 1013J to modify the height and area regulations within the H-4 General Commercial District for authority to allow a driveway to be located in the required front yard of the T.O. Haas Tire Store on property generally located at S. 56th Street and Waltz Road and legally described to wit:

Lot 28, Block 1, Country Place 4th Addition, located in the Northwest Quarter of Section 16, Township 9 North, Range 7 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this ~~flag pole~~ driveway will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Dansid, L.L.C., hereinafter referred to as "Permittee", to modify the height and area regulations of the H-4 General Commercial District to allow a driveway to be located in the required front yard of the T.O. Haas Tire Store on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.470 of the Lincoln Municipal Code upon condition that construction and operation of said driveway be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a driveway to extend 29'10" into the required front yard along South 56th Street.

2. The driveway shall not be used for parking or stacking of vehicles.

3. Before receiving building permits:

a. The Permittee must submit a revised, acceptable, final plan including five copies.

b. The construction plans must conform to the approved plans.

4. Before using the driveway all development and construction

must be completed in conformance with the approved plans.

5. All privately-owned improvements must be permanently maintained by the Permittee or an appropriate alternative approved by the City Attorney.

6. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and other matters.

7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, and Permittee's successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

9. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Introduced by Terry Werner

Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

SPECIAL PERMIT 2002 - APP. OF QUIN-C, INC. FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES ON PROPERTY GENERALLY LOCATED AT 4801 RANDOLPH ST. - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

Seconded by Svoboda & tied by the following vote: AYES: Camp, Friendt, Svoboda; NAYS: McRoy, Newman, Werner; ABSENT: Cook

Due to a tie vote, action was delayed on this item for one week to 12/15/03.

SPECIAL PERMIT 2039 - APP. OF MESAL ENTERPRISES FOR AUTHORITY TO SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES ON PROPERTY GENERALLY LOCATED AT 5240 S. 48TH ST. - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, Svoboda; NAYS: McRoy, Newman, Werner; ABSENT: Cook

Due to a tie vote, action was delayed on this item for one week to 12/15/03.

APPROVING A SCHEDULE OF MAXIMUM FEES THE CITY MAY CHARGE FOR AMBULANCE SERVICE - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

Seconded by Svoboda & carried by the following vote: AYES: McRoy, Newman, Werner; NAYS: Camp, Friendt, Svoboda; ABSENT: Cook

Due to a tie vote, action was delayed on this item for one week to 12/15/03.

SETTING THE HEARING DATE OF MONDAY, JANUARY 5, 2004 AT 1:30 P.M. FOR APP. OF POTAMIA, INC. DBA THE PARTHENON" FOR A CLASS C LIQUOR LICENSE AT 5500 S. 56TH STREET, STE. 100 - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

A-82498 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., January 5, 2004, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City

Building, 555 S. 10th St., Lincoln, NE, for the App. of Potamia, Inc. dba "The Parthenon" for a Class "C" liquor license at 5500 S. 56th Street, Ste. 100.

If the Police Dept., is unable to complete the Investigation by said time, a new hearing date will be set.

Introduced by Terry Werner

Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

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SETTING THE HEARING DATE OF MONDAY, JANUARY 5, 2004 AT 1:30 P.M FOR APP. OF SUNRISE COFFEE COMPANY, LLC DBA "SUNRISE COFFEE" FOR A CLASS I LIQUOR LICENSE AT 1265 S. COTNER BLVD., STE. 10 - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

A-82499 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., January 5, 2004, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the App. of Sunrise Coffee Company, LLC dba "Sunrise Coffee" for a Class "I" Liquor License at 1265 S. Cotner Blvd., Ste. 10.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Terry Werner

Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

PETITIONS & COMMUNICATIONS - NONE

REPORTS OF CITY OFFICERS

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED BY COUNCIL ON NOVEMBER 24, 2003 CLERK presented said report which was placed on file in the Office of the City Clerk.

CLERK'S LETTER AND MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED BY COUNCIL ON DECEMBER 1, 2003 CLERK presented said report which was placed on file in the Office of the City Clerk.

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED JULY, 2000 - CLERK read the following resolution, introduced by Terry Werner, who moved its adoption:

A-82497 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended October 31, 2003, \$313,217.74 was earned from the investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rata basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

Introduced by Terry Werner

Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

REPORT OF LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR NOVEMBER 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk. (8-71)

REPORT FROM CITY TREASURER OF TELECOMM. OCC. TAX FOR THE MONTH OF SEPT., 2003: CIII COMM. OPERATIONS; OCT., 2003: MCLEOD USA, NOS, LIGHTYEAR, TRI-M, LDMI, NETWORK BILLING SYSTEMS, TELECORP., GTC, WORLDXCHANGE, TELCO DEV., EXCEL, NOSVA, NEXTEL WEST, ZONE TELECOM., GLOBALCOM, COMDATA, ASSOCIATION ADM., AFFINITY NETWORK, GLOBAL CROSSING, OCMC, NORSTAN NETWORK, ONSTAR, BUYER'S UNITED, VERIZON, VIRGIN MOBILE USA, AON, CIII COMM., VERIZON SELECT SERVICES, QWEST, PRIMUS, TRANS NAT'L., WORKING ASSETS; OCT., 2003: MCLEOD USA, NOS, LIGHTYEAR, TRI-M, LDMI, NETWORK

BILLING SYSTEMS, TELECORP., GTC, WORLDXCHANGE, TELCO DEV., EXCEL, NOSVA, NEXTEL WEST, ZONE TELECOM., GLOBALCOM, COMDATA, ASSOCIATION ADM., AFFINITY NETWORK, GLOBAL CROSSING, OCMC, NORSTAN NETWORK, ONSTAR, BUYER'S UNITED, VERIZON, VIRGIN MOBILE USA, AON, CIII COMM., VERIZON SELECT SERVICES, QWEST, PRIMUS, TRANS NAT'L., WORKING ASSETS - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

ORDINANCES - 1ST READING

DECLARING APPROXIMATELY 5 ACRES OF PROPERTY GENERALLY LOCATED ADJACENT TO THE HIGHLANDS GOLF COURSE AT N.W. 12TH STREET, NORTH OF W. HIGHLANDS BOULEVARD, AS SURPLUS - CLERK read an ordinance, introduced by Terry Werner, declaring approximately five acres of City-owned property generally located adjacent to the Highlands Golf Course at N.W. 12th Street, north of W. Highlands Boulevard as surplus and authorizing the sale thereof, the first time

CHANGE OF ZONE 3425 - APPLICATION OF THE DIRECTOR OF PARKS AND RECREATION FOR A CHANGE OF ZONE FROM P PUBLIC USE TO O-3 OFFICE PARK, ON PROPERTY GENERALLY LOCATED ADJACENT TO THE HIGHLANDS GOLF COURSE AT N.W. 12TH STREET, NORTH OF W. HIGHLANDS BOULEVARD - CLERK read and ordinance, introduced by Terry Werner, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

CHANGE OF ZONE 3427 - AMENDING SECTION 27.69.090 OF THE LINCOLN MUNICIPAL CODE TO ALLOW COMMUNITY PLAYHOUSES AS AN ADDITIONAL USE PERMITTED FOR THE SAME SIGN PACKAGE AS SCHOOLS AND CHURCHES - CLERK read an ordinance, introduced by Terry Werner, amending Section 27.69.090 of the Lincoln Municipal Code to allow community playhouses as an additional use permitted for the same sign package as schools and churches; and repealing Section 27.69.090 of the Lincoln Municipal Code as hitherto existing, the first time.

CHANGE OF ZONE 3426 - APPLICATION OF LAMBERT INVESTMENTS #2 FOR A CHANGE OF ZONE FROM H-1 INTERSTATE COMMERCIAL DISTRICT TO H-3 HIGHWAY COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT N.W. 12TH AND W. BOND STREETS - CLERK read an ordinance, introduced Terry Werner, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the first time.

ORDINANCES - 3RD READING

APPROVING A FIVE YEAR LEASE AGREEMENT BETWEEN B & J PARTNERSHIP LTD. & THE CITY DBA LINCOLN FIRE & RESCUE FOR THE LEASE OF WAREHOUSE SPACE AT 2600 PARK BLVD. (11/17/03 - PUBLIC HEARING CONT'D TO 12/1/03) - CLERK read an ordinance, introduced by Annette McRoy, accepting and approving a Lease Agreement between B & J Partnership, Ltd. and the City of Lincoln for a lease of approximately 12,500 square feet of space at 2600 Park Blvd., Lincoln, Lancaster County, Nebraska for a five-year term commencing October 1, 2003 and continuing until August 31, 2008 for use by the Lincoln Fire Department for the FEMA Urban Search and Rescue Task Force Program, the third time.

MCROY Moved to pass the ordinance as read.

Seconded by Svoboda & carried by the following vote: AYES:

Friendt, McRoy, Newman, Svoboda, Werner; NAYS: Camp; ABSENT: Cook

The ordinance, being numbered #18282, is recorded in Ordinance Book ,
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CHANGE OF ZONE NO. 3399 - AMENDING ORDINANCE NO. 18113 RELATING TO IMPACT FEES BY AMENDING SECTION 6 ADDING A NEW SECTION 27.82.060 (EXEMPTION FROM IMPACT FEES) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.060 TO CLARIFY THAT VALID BUILDING PERMIT APPLICATIONS SUBMITTED PRIOR TO JUNE 2, 2003 ARE EXEMPT FROM IMPACT FEES, TO PROVIDE WHEN A BUILDING PERMIT APPLICATION SHALL BE DEEMED COMPLETE, TO CLARIFY THAT AMENDMENTS, MODIFICATIONS OR OTHER CHANGES TO AN APPROVED DEVELOPMENT WHICH IS CATEGORICALLY EXEMPT WILL BE SUBJECT TO THE IMPOSITION OF IMPACT FEES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 27.82.050, TO DELETE TABLE 27.82.060(B), TO DELETE REFERENCES TO APPROVALS QUALIFYING FOR CATEGORY EXEMPTIONS, TO CLARIFY WHEN A CLAIM OF EXEMPTION FOR LOW INCOME OWNER-OCCUPIED HOUSING AND LOW INCOME RENTAL HOUSING MUST BE MADE, AND WHEN SAID CLAIMS BECOME VALID; BY AMENDING SECTION 7 ADDING A NEW SECTION NUMBERED 27.82.070 (IMPACT FEE FUNDS) TO THE LINCOLN MUNICIPAL CODE

AMENDING SECTION 27.82.070 TO CLARIFY THAT NO MORE THAN 2% OF THE IMPACT FEES COLLECTED MAY BE USED TO COMPENSATE THE CITY FOR ADMINISTRATIVE EXPENSES INCLUDING REFUNDS; BY AMENDING SECTION 8 ADDING A NEW SECTION NUMBERED 27.82.080 (REFUNDS OF IMPACT FEES PAID) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.080 TO PROVIDE FOR A REFUND OF IMPACT FEES PREVIOUSLY PAID WHEN THE DEVELOPMENT SUBSEQUENTLY QUALIFIES FOR AN OWNER-OCCUPIED LOW INCOME HOUSING EXEMPTION; BY AMENDING SECTION 11 ADDING A NEW SECTION NUMBERED 27.82.110 (MISCELLANEOUS PROVISIONS) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.110 TO ELIMINATE REFERENCE TO ADMINISTRATIVE COSTS, TO MODIFY PROVISIONS REGARDING REDUCING IMPACT FEES TO ALLOW A SUBSIDY BASED UPON MEETING ESTABLISHED ECONOMIC CRITERIA, TO MODIFY PROVISIONS REGARDING ADJUSTMENTS FOR INFLATION, AND TO RE-LETTER THE VARIOUS SUBSECTIONS; BY AMENDING SECTION 16 ADOPTING AND INCORPORATING THE DOWNTOWN/ANTELOPE VALLEY EXCLUSION AREA MAP, THE WATER DISTRIBUTION IMPACT FEE BENEFIT AREAS MAP, THE ARTERIAL STREET IMPACT FEE BENEFIT AREAS MAP, AND THE NEIGHBORHOOD PARK AND TRAIL IMPACT FEE BENEFIT AREAS MAP INTO ORDINANCE NO. 18113 TO PROVIDE THAT THOSE MAPS BE CODIFIED IN THE LINCOLN MUNICIPAL CODE AS APPENDIXES 1 THROUGH 4 TO CHAPTER 27.82; BY AMENDING SECTION 17 ADOPTING AND INCORPORATING THE IMPACT FEE STUDY PREPARED BY DUNCAN ASSOCIATES INTO ORDINANCE NO. 18113 BY AMENDING TABLE 4, ARTERIAL STREET COST PER MILE, TO EXCLUDE SIDEWALKS, WATER AND WASTEWATER LINE ADJUSTMENTS AND TO REDUCE THE NUMBER OF UNITS FOR FULL INTERSECTION TRAFFIC SIGNALS FROM 3.5 TO 1.5 UNITS PER MILE IN DETERMINING THE TOTAL COST PER MILE FOR A FOUR-LANE ARTERIAL AND BY DELETING THE SECOND PARAGRAPH OF TEXT ON PAGE 12 OF THE STUDY AND TO PROVIDE THAT ONE COPY OF THE IMPACT FEE STUDY BE FILED IN THE OFFICE OF THE CITY CLERK FOR USE AND EXAMINATION BY THE PUBLIC; BY AMENDING SECTION 20 TO PROVIDE THAT ORDINANCE NO. 18113 SHALL BE IN FULL FORCE AND EFFECT AS OF JUNE 2, 2003 AFTER ITS PASSAGE AND POSTING ON THE OFFICIAL BULLETIN BOARD OF THE CITY IN LIEU OF NEWSPAPER PUBLICATION - PRIOR to reading:

SVOBODA Moved Amendment No. 1 of Bill No. 03-183 on page 14, lines 5 & 6, delete "Such adjustments in such fees shall become effective upon approval by resolution of the City Council".

Seconded by Werner & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

SVOBODA Moved Amendment No. 1 of Bill No. 03-183 on page 12, delete lines 12 through 23 in their entirety and insert the following language in lieu thereof:

(h) Discretion to Reduce Impact Fees. In order to promote the economic development of the City of the public health, safety, and general welfare of its residents, the City Council by an affirmative vote of at least five of its members may agree to pay some or all of the impact fees imposed on a proposed development or redevelopment from other funds of the City that are not restricted to other uses. Any such decision to pay impact fees on behalf of a proposed development shall be at the discretion of the City Council and shall be made pursuant to goals and objectives adopted by the City Council to promote such development.

Seconded by Werner & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

CLERK Read an ordinance, introduced by Patte Newman, amending Ordinance No. 18113 relating to impact fees by amending Section 6 adding a new section 27.82.060 (Exemption from Impact Fees) to the Lincoln Municipal Code, the third time.

The ordinance, being numbered #18283, is recorded in Ordinance Book ,Page

AMENDING TITLE 8 OF THE LINCOLN MUNICIPAL CODE RELATING TO HEALTH AND SANITATION BY CREATING A NEW CHAPTER 8.48 ENTITLED THE LINCOLN SMOKEFREE AIR ACT TO SET FORTH THE TITLE AND PURPOSE OF THE CHAPTER, TO SET FORTH GENERAL PROVISIONS REGARDING DEFINITIONS USED IN THE CHAPTER, TO PROVIDE DEFINITIONS FOR EMPLOYEE, EMPLOYER, GUESTROOM OR SUITE, HEALTH DIRECTOR, INDOOR AREA, INTERNATIONAL NO-SMOKING SYMBOL, PLACE OF EMPLOYMENT, PROPRIETOR, PUBLIC PLACE, SMOKE OR SMOKING, RESPECTIVELY, TO PROVIDE EXCEPTIONS TO THE PROVISIONS OF THE CHAPTER; TO REQUIRE THE POSTING OF "NO SMOKING" SIGNS, TO PROVIDE FOR THE ENFORCEMENT OF THE PROVISIONS OF THE CHAPTER, TO PROVIDE PENALTIES FOR VIOLATIONS OF THE CHAPTER, TO PROVIDE FOR SEVERABILITY OF THE CHAPTER, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE SIX MONTHS AFTER CITY COUNCIL APPROVAL - PRIOR to reading:

NEWMAN Moved to amend Bill No. 03-176S2 as shown attached. (To be incorporated into amended ordinance.

Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman; NAYS: Svoboda, Werner; ABSENT: Cook

SVOBODA Moved to make a friendly amendment to Amendment No. 28 by changing the effective date of 18 months back to 6 months.

Friendt Seconded.

SVOBODA Moved to withdraw the friendly amendment.

FRIENDT Moved to delay action for one week to 12/15/03.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook

CLERK Read an ordinance, introduced by Jonathan Cook, amending Title 8 of the Lincoln Municipal Code relating to health and sanitation by creating a new Chapter 8.48 entitled the Lincoln Smokefree Air Act to set forth the title and purpose of the chapter, to set forth general provisions regarding definitions used in the Chapter, to provide definitions for employee, employer, guestroom or suite, health director, indoor area, international no-smoking symbol, place of employment, proprietor, public place, smoke or smoking, respectively, to provide exceptions to the provisions of the chapter; to require the posting of "no smoking" signs, to provide for the enforcement of the provisions of the chapter, to provide penalties for violations of the chapter, to provide for severability of the chapter, and providing that this ordinance shall become effective six months after City Council approval, the third time.

MISCELLANEOUS BUSINESS

PENDING -

APPOINTING LYNN SUNDERMAN TO THE LINCOLN-LANCASTER COUNTY PLANNING COMMISSION FOR A SIX-YEAR TERM EXPIRING AUGUST 24, 2009 - CLERK requested to remove Bill No. 03R-287B from Pending for action on 12/15/03.

FRIENDT So moved.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook.

SVOBODA Moved to extend the Pending List to December 15, 2003.

Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook.

UPCOMING RESOLUTIONS -

SVOBODA Moved to approve the resolutions to have Public Hearing on December 15, 2003.

Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None; ABSENT: Cook.

ADJOURNMENT 5:56 P.M.

SVOBODA Moved to adjourn the City Council meeting of December 8, 2003.

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

So ordered.

Joan Ross, CMC, City Clerk

Judy Roscoe, Senior Office Assistant

